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Original Via UPS

**NEW MEXICO
ENVIRONMENT DEPARTMENT**

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JAMES C. KENNEY
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JENNIFER PRUETT
Deputy Secretary

March 27, 2019

Mr. Charles Maguire, Director
Water Quality Protection Division (6-WQ)
U. S. Environmental Protection Agency
1445 Ross Avenue, Suite 1200
Dallas, Texas 75202-2733

**RE: State Certification – Albuquerque Bernalillo County Water Utility Authority
NPDES Permit No. NM0022250**

Dear Mr. Maguire:

Enclosed please find the state certification for the following proposed National Pollutant Discharge Elimination System (NPDES) permit:

**Albuquerque Bernalillo County Water Utility Authority
NPDES Permit NM0022250**

If any, comments and conditions are enclosed on separate sheets.

U. S. Environmental Protection Agency (USEPA) proposes to regulate discharges under the above-referenced NPDES Permit. A state Water Quality Certification is required by the federal Clean Water Act (CWA) §401 to ensure that the action is consistent with state law (New Mexico Water Quality Act, section 74-6-1 through 74-6-17, New Mexico Statutes Annotated (NMSA) 1978) and complies with state Water Quality Standards [*State of New Mexico, Standards for Interstate & Intrastate Surface Waters, New Mexico Water Quality Control Commission, 20.6.4 New Mexico Administrative Code (NMAC)*], the Water Quality Management Plan/Continuing Planning Process, including Total Maximum Daily Loads (TMDLs), and the Antidegradation Policy.

Pursuant to State regulations for permit certifications (Section 20.6.2.2001 NMAC), USEPA jointly with NMED issued a public notice of the draft permit and announced a public comment period posted on the NMED website at www.nmenv.state.nm.us/swqb/WQA/Notice December 22, 2018. The NMED public comment period ended on March 13, 2019. NMED did not receive comments.

Sincerely,

/s/ Shelly Lemon

Shelly Lemon, Bureau Chief
Surface Water Quality Bureau

Ms. Anne Idsal, Regional Administrator
Environmental Protection Agency
1445 Ross Avenue
Dallas, TX 75202-2733

March 27, 2019

STATE CERTIFICATION

RE: **Albuquerque Bernalillo County Water Utility Authority (ABCWUA) WWTP; NPDES
Permit No. NM0022250**

Dear Ms. Idsal:

The New Mexico Environment Department has examined the proposed NPDES permit above. The following conditions are necessary to assure compliance with the applicable provisions of the Clean Water Act Sections 208(e), 301, 302, 303, 306, and 307 and with appropriate requirements of State law. Compliance with the terms and conditions of the permit and this certification will provide reasonable assurance that the permitted activities will be conducted in a manner which will not violate applicable water quality standards and the water quality management plan and will be in compliance with the antidegradation policy.

The State of New Mexico

- (X) certifies that the discharge will comply with the applicable provisions of Sections 208(e), 301, 302, 303, 306 and 307 of the Clean Water Act and with appropriate requirements of State law
- () certifies that the discharge will comply with the applicable provisions of Sections 208(e), 301, 302, 303, 306 and 307 of the Clean Water Act and with appropriate requirements of State law upon inclusion of the following conditions in the permit (see attachments)
- () denies certification for the reasons stated in the attachment
- () waives its right to certify

In order to meet the requirements of State law, including water quality standards and appropriate basin plan as may be amended by the water quality management plan, each of the conditions cited in the draft permit and the State certification shall not be made less stringent.

The Department reserves the right to amend or revoke this certification if such action is necessary to ensure compliance with the State's water quality standards and water quality management plan.

Please contact Sarah Holcomb at (505) 827-2798, if you have any questions concerning this certification. Comments and conditions pertaining to this draft permit are attached.

Sincerely,

/s/ Shelly Lemon

Shelly Lemon, Bureau Chief
Surface Water Quality Bureau

Albuquerque Bernalillo County Water Utility Authority
New Mexico Comments on the Proposed NPDES Permit
NM0022250
March 27, 2019

The following revisions are necessary to ensure that discharges allowed under the National Pollutant Discharge Elimination System (NPDES) permit protect State of New Mexico water quality standards (WQS) adopted in accordance with §303 of the Clean Water Act (CWA) and the New Mexico Water Quality Act [NMSA 1978, §§ 74-6-1 to -17]. State of New Mexico (State) WQS are published in the document entitled Standards for Interstate and Intrastate Surface Waters, New Mexico Water Quality Control Commission (WQCC), 20.6.4. New Mexico Administrative Code (NMAC) as amended by the WQCC and approved by the United States Environment Protection Agency (EPA or USEPA) as of August 11, 2017.

NPDES regulations at 40 CFR 122.44(d)(1)(i) require that permit *limitations must control all pollutants or pollutant parameters...which the Director determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any State water quality standards...*

Conditions of Certification:

1. None

Comments that are not Conditions of Certification:

1. NMED requests that EPA clarify in Part 1.A.1, CBOD and TSS Influent that the sample type should also be a 24-hour Composite sample along with the calculation footnote *2.
2. Although it states in Part 1.F Pollutant Scan, NMED requests that EPA clarify in Part 1.A.1, chlorides, TDS, and Sulfates be monitored upstream at the Rio Bravo Bridge by adding a footnote specifying this location.
3. The Capacity, Management, Operation and Maintenance (CMOM) program must be addressed in the permit, as it is in the Fact Sheet. NMED requests that EPA add language stating that the permittee must continue to implement and update (if necessary) the CMOM plan required previously.